

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA 01 MAR -
SOUTHERN DIVISION

U. S. DISTRICT COURT
N.D. OF ALABAMA

RANDALL HINES,

Plaintiff,

VS.

WARDEN BILLY MITCHEM, et al.,

Defendants.

CV 00-G-0906-S

ENTERED

MAR 08 2001

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation (Document #26) on January 18, 2001, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b)(1) for failing to state a claim upon which relief can be granted. Plaintiff was afforded fifteen (15) days in which to file objections to the report and recommendation. In addition, plaintiff was specifically advised that “[t]he right to file objections is not an opportunity to make new allegations or present additional evidence. If new allegations or additional evidence are stated in the objections, they will not be considered by the court.” Report and Recommendation at 14 (emphasis in original). In opposition to the report and recommendation, plaintiff has filed objections (Document #28), a document entitled “Pleadings” (Document #31), an affidavit in support of his objections (Document #32), “amending and supplemental” objections (Document #33), and a letter to the undersigned dated February 19, 2001 (Document #35). None of these documents contain factual allegations that would cure the deficiencies in plaintiff’s amended complaint and thereby adequately state the claims raised in the amended complaint. Moreover, in the letter

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submitted February 19, 2001 (Document #35), plaintiff appears to assert new claims. As plaintiff was advised in the report and recommendation, the right to object is not an opportunity to set forth new claims. It is noted that plaintiff has not filed a motion for leave to amend his complaint. In any event, to the extent that plaintiff is attempting to raise new claims, he must file a new action.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the pleadings filed in objection thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b). A Final Judgment will be entered.

DATED this 8th day of March, 2001.



J. FOY GUIN, JR.
UNITED STATES DISTRICT JUDGE